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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,497	07/19/2002	Pieter Van Dalen	DCLERC 3	7026
23599 7590 05/07/2009 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201				
			EXAMINER	
			DALENCOURT, YVES	
		ART UNIT	PAPER NUMBER	
		2457		
		NOTIFICATION DATE	DELIVERY MODE	
		05/07/2009	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

Office Action Summary

Application No.

10/070,497

Applicant(s)

VAN DALEN, PIETER

Examiner

YVES DALENCOURT

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 9-12, 14-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-12, 14-18, and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In view of the Appeal Brief filed 01/16/2009, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Claim Objections

Claims 1, 9 - 18 and 23 - 24 are objected to because of the following informalities: It is suggested to start the claims with either --- A ---. For example, in claim 9 --- A method of establishing ----.

It is suggested to delete "of "(claims 9 - 10, line 13; claim 14, line 18). It is suggested to delete " **NetWork** " (claim 10, line 3) and insert --- Network ---.

It is suggested to delete " Public Switched Telephone Network " and insert --- public switched telephone network (PSTN) --- (claims 1, 9, and 10, line 3).

It is suggested to delete "**System Control Unit**" (claim 14, line 3) and insert --- system control unit ---.

Delete "**Appliance Control Units**" (claim 14, line 6) and insert --- appliance control units ---. Delete " TeleMail " (claim 14, lines 2, 3, 4).

Please delete all the terms in capital letters and put them in lower case through the claims.

The claims are objected to because of the following informalities: It is suggested to delete "**able or capable**" in the claims because it has been held that the recitation that an element is "**able or capable**" to perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, 9, 10, 11, 12, 14, and 22 - 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "**receiving the telephone number**" in line 1. A **telephone number** has not previously been identified in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "**allowing the collection of information**" in line 4. A collection of information has not previously been identified in the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "**the database**" in line 13. A database has not previously been identified in the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "**the received information**" in line 13. There is insufficient antecedent basis for this limitation in the claim. Does Applicant mean to say --- with the transferred information ---?

Regarding claim 10, the limitation of "**and allowing the transfer of information from meters to the central host device**" is not understood. It is not clear what Applicant means by allowing the transfer of information from **meters** to the central host device?

Regarding claim 10, the term "**the device**" is confusing. It is not clear to which device Applicant is referring to?

Regarding claims 11 – 12, 16 – 17, and 23 – 24, the limitation of "to perform all the applicable steps presented in claims 9, 10, and 14 is not clear. What does Applicant regard as all applicable steps?

Regarding claim 14, the limitation of "**inserting Appliance Control Units between controlled appliances, and to the in-house main network**" is not clear. What does Applicant mean by inserting Appliance Control Units between controlled appliances?

Claim 18 recites the limitation "**the System Control Unit identifier**" in line 1. A system control unit identifier has not previously been identified in the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the member Appliance Control Units" in line 3. A member Appliance Control Units has not previously been identified in the claims. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 15, the limitation of "independently background executing the scheduled actions by the Scheduler " (line 14) is not clear. It is not understood what exactly Applicant meant by such limitation?

Claims 14 - 18 have not been rejected with art because they are not written in a form to enable the examiner to perform a search in order to find the relevant art.

The Examiner has kindly requested the Applicant to present claims 14- 18 in a better form so that a search can be conducted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 9 - 12, and 20 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al (US 5,805,298; hereinafter Ho) in view of Naylor et al (US 6,625,642; hereinafter Naylor).

Regarding claim 1, Ho teaches a method for establishing e-mail communication between which both have access to the Public Switched Telephone Network, further comprising the steps of establishing the data link, and PPP connection between the sender and receiver application (col. 3, lines 36 - 43); and transferring the e-mail message (s) to receiver device over TCP/IP (col. 3, lines 43 - 47).

Ho teaches substantially all the limitations, but fails to specifically teach the idea of establishing e-mail communication between a sender device and a receiver device over the Public Switched Telephone Network (PSTN), without the need of being connected to the Internet.

However, Naylor teaches in an analogous art, the idea of having an e-mail communication to be conducted over the PSTN between a sender device and a receiver device, without the need of being connected to the Internet (see abstract; col. 1, lines 8 – 16; col. 2, lines 1 - 6).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ho by establishing e-mail communication between a sender device and a receiver device over PSTN without the need of being connected to the Internet as evidenced by Naylor for the purpose of sending and receiving e-mail through an existing communication network system other than the Internet, thereby providing a cost effective way of transmitting/receiving emails.

Regarding claims 2, 9 - 10, 20, and 22 - 24, Ho and Naylor teach all the limitations in claim 1, and Ho further teaches a method according to claim 1, further comprising the steps of composing one or more electronic mail messages on the sender device through a graphical user interface (GUI) application (col. 4, lines 7 - 42; col. 5, line 15 through col. line 23); setting up a telephone connection and data link from the sender device to receiver device; accepting an electronic mail message from the sender device by the receiver device; storing an electronic mail message on the receiver device (col. 4, line -42; col. 5, line 15 through col. 6, line 23); terminating the data link and telephone connection(c, 4, lines 7 - 42; col. 5, line 15 through col. 6, line 23); perceptibly indicating that an electronic mail message has been received by the receiver device; and visually presenting the electronic mail message, including attached files, by a graphical user interface (GUI) application on the receiver device (col. 4, lines 7 - 42; col. 5, line 1 through col. 6, line 23).

Regarding claim 3, Ho and Naylor teach all the limitations in claim 1, and Ho further teaches the step of retrieving the telephone number of the receiver device from a database (col. 6, lines 58 - 60; col. 7, lines 6 - 17).

Claims 11 and 12 substantively incorporate the limitations of claim 9. The reasons for the rejection of claim 9 apply to claims 11 and 12.

Regarding claim 21, the Examiner takes Official Notice that using an RS-232 interface is well known in the art (see cited reference US 6,934,862).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YVES DALENCOURT whose telephone number is (571)272-3998. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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